



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 855,436	05 15 2001	Kim Norman Landeweer	MBHB01-630	9015

7590 04 09 2002

John J. McDonnell  
McDonnell Boehnen Hulbert & Berghoff  
32nd Floor  
300 S. Wacker Drive  
Chicago, IL 60606

EXAMINER

MICHL, PAUL R

ART UNIT	PAPER NUMBER
1714	5

1714

5

DATE MAILED: 04 09 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

117

# Office Action Summary

Application No. 09/555,436	Applicant(s)
Examiner	Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- Responsive to communication(s) filed on \_\_\_\_\_
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

- Claim(s) 1-14 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-14 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- received in this national stage application from the international Bureau (PCT No. \_\_\_\_\_)
- Certified copies not received:

### Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892
- Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Other \_\_\_\_\_

Office Action Summary

Art Unit 1714

Claim 4 is rejected under 35 U.S.C. § 112 second paragraph for being indefinite. The use of abbreviations EDTA and NTA is improper. The words should be spelled out.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

Claims 1-14 are rejected under 35 U.S.C. § 112 (1) as being anticipated by Kangas or Leising or Smith or Sikes or Smith or Sikes

Art Unit 1714

Claims 1-14 are rejected under 35 U.S.C. § 102(e) as being anticipated by Chiao or Moody. Applicants' claims are directed to "an amphoteric agent" such as "EDTA". Amphoteric agent lacks novelty over these references. EDTA lacks novelty over these references. All of these references disclose compositions comprising amphoteric agents. See the Abstract of Kangas, Leising, Smith, Plochocka, Takeda, Exner, Chiao, and Moody. See column 24, line 16 and column 24, line 38 of Sikes. Applicants' claims lack novelty.

Claims 1-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kangas or Leising or Smith or Sikes or Plochocka or Takeda or Exner or Chiao or Moody. Applicants' claims are directed to compositions such as compositions comprising amphoteric agent and a surfactant. All of these references disclose compositions which may comprise various ingredients in addition to the materials which qualify as "amphoteric agent". Many of these references disclose surfactants. It would be obvious to one of ordinary skill in the art to formulate compositions comprising amphoteric agent and other materials such as surfactant or polymer in any of these references. The use of a nonionic surfactant and amphoteric surfactant would be obvious in Chiao because Chiao

Serial No. 09/855,436

-4-

Art Unit 1714


another and it is well established that mixtures of functionally equivalent ingredients are prima facie obvious. Moody discloses amphoteric surfactant in the Abstract.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Michl whose telephone number is (703) 308-2451. The examiner can normally be reached on Monday through Friday from 7:30 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for this Group is (703) 305-5433.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

PRMichl:cdc

  
**PAUL R. MICHL**  
PATENT EXAMINER  
ART UNIT 156